

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Planning Applications Committee

19 September 2019

TITLE:	PERFORMANCE ON PLANNING APPEALS
CONTACT:	DEVELOPMENT MANAGEMENT TEAM
WARDS INVOLVED:	ALL

Appendices Attached - None

1. **Reason for the Report:** To inform members of appeals lodged and decided since the last update to the Planning Applications Committee.

2. **Recommendation**

2.1 That the report be noted.

3. **APPEALS LODGED**

None received

4. **APPEAL DECISIONS RECEIVED**

Application No. SMD/2018/0121

Location: 325 Armshead Road, Werrington

Proposal demolition of existing single storey accommodation and construction of rear single/two storey extension

Level and Date of Decision: Delegated. 11th January 2019

Recommendation: Approve with conditions

Decision: Approve with conditions

Appeal Decision and Date: Allowed 2nd July 2019 2019

Method of Decision: Written Representations

Major / minor: Minor

Inspector: Ben Plenty BSC (Hons) DipTP MRTPI

Costs awarded: No

Main Issues:

- The Appeal was against a condition attached to the permission
- The condition in dispute is No 4 which states that: *“Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification, no development as specified in Schedule 2, Part 1 Class(es) A, B, C, D and E other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority*

Conclusions:

The Inspector concluded:

- However, the Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. Paragraph 55 requires conditions to be necessary and reasonable. Furthermore, the Guidance² states that conditions that restrict the future use of PD rights will rarely pass the test of necessity and should only be used in exceptional circumstances
- it is not uncommon for buildings in the Green Belt to enjoy PD rights, whose employment could also affect the openness of the Green Belt. As such, the fall-back position would only be of limited weight when balancing the effect of proposed development on the Green Belt taking into account advice in the Framework.
- The condition removes a broad range of PD rights unconnected with the proposal and is therefore unreasonable. Furthermore, to remove Permitted Development rights to protect the openness of the Green Belt, would not meet the high bar of exceptional circumstance set out in the Guidance. The condition is therefore unnecessary. Consequently, the condition is neither necessary nor reasonable and thus fails to pass the tests in the Framework.

Officer Comment:

This is obviously a disappointing decision for the Council as we permitted a large extension in the Green Belt by trading off other PD rights because the applicant was running a PD fallback argument so that a situation was avoided where having constructed the extension they were then able to build a significant amount of buildings and other extensions under PD as well. The Inspector felt that PD often allowed large extensions and buildings in the Green Belt and there was nothing unusual about that so felt the condition was unnecessary. However, this also contradicts the approach which Inspectors have taken to the same issue elsewhere. (See SMD/2018/0749 below)

Application No. DET/2019/0002

Location: the Barn, Town Head Farm, Foxt Road, Foxt.

Proposal: conversion of an agricultural building to form a single dwelling

Level and Date of Decision: Delegated. 1st March 2019

Recommendation: Refuse

Decision: Refused

Appeal Decision and Date: Dismissed 12th July 2019

Method of Decision: Written Representations

Major / minor: Minor

Inspector: M Savage BSc (hons) MCD MRTPI

Costs awarded: No

Main Issues:

- Whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended); and
- Whether the design or external appearance of the building would be acceptable given the rural character and appearance of the area.

Conclusions:

The Inspector concluded:

- I accept that there are four elevations in situ and that the structural frame is suitable for conversion. However, the works required to convert the building would be significant. Although existing block work would be retained, a significant amount of the block work would be new. Whilst the replacement of the roof, walls and floor internally to insulate and waterproof the building, and externally for weatherproofing, could, in my view, fall within the category of reasonably necessary for the building to function as a dwellinghouse, given the extent of the works that are proposed this would, in my view, constitute a re-build.
- Thus, I conclude that the proposal would not be a conversion and as such, would not constitute a form of permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to the associated guidance within the PPG.
- Given my conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether the design or external appearance of the building would be acceptable as it would not alter the outcome of the appeal.

Officer Comment:

It is encouraging to see that the Inspector has supported the strong line which the Council has adopted in resisting the utilisation of Permitted Development Rights to enable inappropriate conversion of agricultural buildings which are not suitable or capable of conversion without significant rebuilding.

Application No. SMD/2018/0622

Location: Freshwater House, Macclesfield Road, Rudyard.

Proposal demolition of the existing bungalow and erection of a replacement dwelling

Level and Date of Decision: Delegated. 14th December 2018

Recommendation: Refuse

Decision: Refused

Appeal Decision and Date: Allowed 12th July 2019

Method of Decision: Written Representations

Major / minor: Minor

Inspector: E Griffin LLB (Hons)

Costs awarded: No

Main Issues:

The main issue is the effect of the appeal proposal on the character and appearance of the area.

Conclusions:

The Inspector concluded:

- In terms of the overall size, there is not a significant difference between the existing dwelling with the front conservatory and the new dwelling. With regard to proportions, the change to a two story dwelling from a bungalow will inevitably add some bulk. However, the replacement dwelling with symmetrical gable features would compare favourably to the existing dwelling with the steep sloping roof and the unusual front conservatory arrangement and a side entrance.
- The appellant has sought to incorporate the guidelines contained in the Design Principles for Development in the Staffordshire Moorlands New Dwellings and Extensions to Dwellings (the Design Guide) within the appeal proposal. For example, the proposed proportions of two thirds elevation and one third roof would provide the balance of proportions referred to in the Guide as opposed to the existing top heavy bungalow.
- The Council considers that the appeal proposal is a suburban style dwelling to be found in residential areas and considers that the proportions and shape of the dwelling are of concern. However, the Design Guide refers to the symmetrical appearance of roof forms being simple with a dominant roof line and, where appropriate to the locality of the building, emphasised by gables.
- However, there is already a large dwelling on the appeal site and the appeal proposal represents an opportunity to improve the visual appearance by creating a dwelling which is more in keeping with its surroundings. The openness of the appeal site would be maintained as the appeal proposal in its improved more central less elevated location would still be set in a spacious plot.

Officer Comment:

Whilst it is disappointing that the Inspector did not concur with officers conclusions it is accepted that design issues will always be to some degree a subjective judgement on behalf of the decision maker. Whilst it is acknowledged that the Inspector makes some valid points that the scheme would be an improvement over the existing bungalow, officers are of the view that the standard of design of this scheme could have been higher still.

Application No. SMD/2018/0749

Location: Fair View, Caverswall Common Lane, Caverswall, ST11 9EU.

Proposal variation of Condition 7 (Removal of Permitted Development Rights) of planning permission SMD/2018/0599 which was for a replacement dwelling

Level and Date of Decision: Delegated. 22nd January 2019

Recommendation: Refuse

Decision: Refused

Appeal Decision and Date: Dismissed 8th July 2019

Method of Decision: Written Representations

Major / minor: Minor

Inspector: M Savage BSc(Hons) MCD MRTPI

Costs awarded: No

Main Issues:

- Planning permission has been granted for the erection of a replacement dwelling at the appeal site. The Council concluded that the replacement dwelling would be materially larger than the one which it was intended to replace and was therefore inappropriate development in the Green Belt. When considering whether there were Very Special Circumstances, the Council considered a fallback position which demonstrated that a much larger dwelling could be achieved by extending the dwelling under Permitted Development Rights which, it was concluded, would have been much more harmful to the Green Belt than the replacement dwelling.
- The appellant asserts that the removal of Class E permitted development rights is not reasonable, relevant to the development to be permitted and is not.

Conclusions:

The Inspector concluded:

- The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. I agree that such rights should not be withdrawn as a matter of course in the Green Belt. Nevertheless, since the difference between the proposed dwelling and fallback position would be limited, in order for there to be very special circumstances it would have been necessary that the benefits of the proposed dwelling would clearly outweigh the harm to the Green Belt.

- Thus, for the reasons given above, I conclude that the condition is reasonable, relevant to the development permitted and necessary in the interests of preserving the openness of the Green Belt. The removal or variation of the condition to allow the appellants to exercise their rights under Class E of the GDPO would harm the openness of the Green Belt and would conflict with Policy SS6c of the Core Strategy and the Framework

Officer Comment:

Whilst this is obviously a pleasing Appeal decision, it is at odds with the conclusions of the Inspector in the Armshead case discussed above. The applicant made an application for costs which were not awarded as the Inspector found that the Council had not behaved unreasonably.

Application No. SMD/2018/0746

Location: Troughstones Farm, Troughstones, Road, Biddulph Common, ST8 7SL.

Proposal two storey extension

Level and Date of Decision: Delegated. 15th March 2019

Recommendation: Refuse

Decision: Refused

Appeal Decision and Date: Dismissed 19th July 2019

Method of Decision: Written Representations

Major / minor: Minor

Inspector: Steven Hartly BA (hons) Dist.TP (Manc) DMS MRTPI, MRICS

Costs awarded: No

Main Issues:

The main issues are (i) whether the proposal would be inappropriate development in the Green Belt, having regard to relevant development plan policies, the Framework and the effect of the proposal on the openness of the Green Belt; (ii) the effect of the development upon the character and appearance of the building and (iii) whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

Conclusions:

The Inspector concluded:

- According to the submitted plans, the original building has been extended previously and to a considerable extent in terms of volume and floor areas. Furthermore, there is an extant approval for a single storey extension on the footprint of what is now proposed for the two storey extension. While I have been given no definition as to the calculation of 'disproportionate additions', I find that the inclusion of the additional and proposed space at first floor level would go beyond what could reasonably be considered to be proportionate additions.
- I therefore conclude that the proposed development would constitute inappropriate development in the Green Belt and would be contrary to paragraph 143 of the Framework.
- The Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl and keep land permanently open. It is an established principal that the openness of the Green Belt has a spatial as well as a visual aspect. While the proposed extension might be screened from public vantage points, the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. It is implicit in the Framework that disproportionate additions to existing buildings must be harmful to the openness of the Green Belt and I have concluded that the proposed development would constitute a disproportionate addition.
- The original building has been extended in the past and there is an extant approval for a single storey front extension on approximately the same footprint as for the proposed two storey development. External materials are to match the existing materials. The proposed two storey extension, by its height in relation to the existing building, would relate better to it than the single storey extension: in the circumstances I do not find that its proposed bulk and size would adversely affect the character and appearance of the dwellinghouse.
- The Framework makes it very clear that the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, needs to be clearly outweighed in order to amount to the very special circumstances necessary to justify it. I have given limited weight to the fall- back position afforded by permitted development rights, limited weight to the needs of the appellant for extra space and also to design changes to the existing dwelling which would result from the proposed development. Furthermore, I have been able to give only slight weight to the existence of the extant approval to the single storey front extension.
- Such matters are insufficient, whether individually or collectively, to amount to very special circumstances which would outweigh the harm to the Green Belt which I have found.

Officer Comment:

This is another pleasing decision where the Inspector has supported the Council's efforts in protecting the openness of the Green Belt and resisting inappropriate development.